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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,207	09/25/2003	Aswin Chandramouleeswaran	200312616-1	2153
22879	7590	05/03/2007		
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER TRAN, VINCENT HUY	
			ART UNIT	PAPER NUMBER
			2115	
			MAIL DATE	DELIVERY MODE
			05/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/669,207

Applicant(s)

CHANDRAMOULEESWARAN ET AL.

Examiner

Vincent T. Tran

Art Unit

2115

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-15 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7, 16-21 is/are rejected.
- 7) ☒ Claim(s) 5 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the communication filed on 9/6/06
2. Claims 1-22 are pending for examination.
3. The text of those sections of Title 35, U.S. code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. As per claims 1, 16, 19, the claimed invention is directed to non-statutory subject matter.

Although it resolves the software, data structure, per se, deficiency of claim 1, 16, and 19 by claiming a physical article or object, and it resolves the issue of whether the instructions are executable by claiming the program as executable code. However, the claim does not result in a physical transformation nor does it appear to provide a useful, concrete and tangible result. As such, the data does not impact functionality to either the data as claimed or to the computer.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2115

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 1, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerantz.

10. As per claim 16, Pomerantz teaches a method for implementing user-defined tunables in a operating system, comprising:

initializing a kctune command;

[inherent – since a kernel module is writing in a C environment [page 2], it is well know in a art that a command is required to open a text editor where the user can either create, edit, or view a kernel module]

selecting a –u flag to initiate creation of a user-defined tunable;

[Makefile paragraph 1.1 or Crt+N for other text editor]

describing the user defined tunable *[source code chardev.c in chapter 5]*

using an expression, relating the user-defined tunable to one or more kernel tunables, wherein each of the kernel tunable are created by a developer

[user define kernel tunable (chardev.c)

using an expression (ret_val = ioctl(file_desc, IOCTL_SET_MSG, message; where

message = 100), relating the user-defined tunable to one or more kernel tunables (ioctl.c

– chapter 5), wherein each of the kernel tunables are created by a developer

(linux/modules.h – library)]

wherein the user-defined tunable is created by a system administrator [user-defined tunable is created by anyone who want to create his or her own kernel module which obviously included system administrator – page 2] and is a component of kernel module stored in kernel module stored in a computer readable medium [inherent].

11. As per claim 17, Pomerantz teaches modifying a value of user defined tunable, wherein values of the one or more related kernel tunables are changed [inherent since by modified the value of message, the related kernel is change].

12. As per claim 18, well know as disclose by Admitted of Prior Art [paragraph 004].

13. As per claim 19-20, the combine teachings of Pomerantz teaches the method for implementing user-defined tunable. Therefore, Pomerantz teaches the computer readable medium having code to implement the user-defined tunable to perform the claimed method.

14. As per claim 1, see discussion in claim 16 and 17.

15. As per claim 2, Pomerantz inherently teach the user defined tunable is applied to an operating system.

16. Claims 3, 6, 21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Pomerantz as applied to claim 1 above, and further in view of Fiamingo.

Art Unit: 2115

17. As per claim 3, Fiamingo disclose the expression relating the user defined tunable to the one or more kernel tunables is of the form of an arithmetic expression involving integers and other tunable names [table 2 p. 7; line 1 of p. 7 set module:variable = value].

18. As per claim 6, Fiamingo disclose the assigned value and the expression use C programming syntax [table 2 p. 7 – 10+16*maxusers] , and where in the assigned value may in one of decimal, octal, or hexadecimal format [10 and 16 are decimal format].

19. As per claim 21, the system of Fiamingo teaches an expressions that relate one or more kernel tunables to the user-defined tunables. Therefore, inherently, the combine teachings teach the user defined tunable does not control any kernel resource directly.

20. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pomerantz as applied to claim 1 above, and further in view of Shearer, Jr. et al. U.S. 6,272,519.

21. As per claim 7, Pomerantz does not teach expressly that the user defined tunable may be deleted.

Shearer, Jr. et al. teach another method for enabling the altering or replacing of the kernel tuning parameters. Specifically, Shearer, Jr. et al. teach the user defined tunable may be deleted [col. 9 lines 20-25]. Therefore, it would have been obvious to one of ordinary skill in the art to have modified the system of Compaq/Pomerantz with the delete command of Shearer, Jr. et al. since the delete command is well know in the art of software.

Allowable Subject Matter

- 22. Claims 8-15 are allowed.
- 23. Claim 5, 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- 24. Claim 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 101, set forth in this Office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent T. Tran whose telephone number is (571) 272-7210. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas c. Lee can be reached on (571) 272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vincent Tran



CHUN CAO
PRIMARY EXAMINER